

1866

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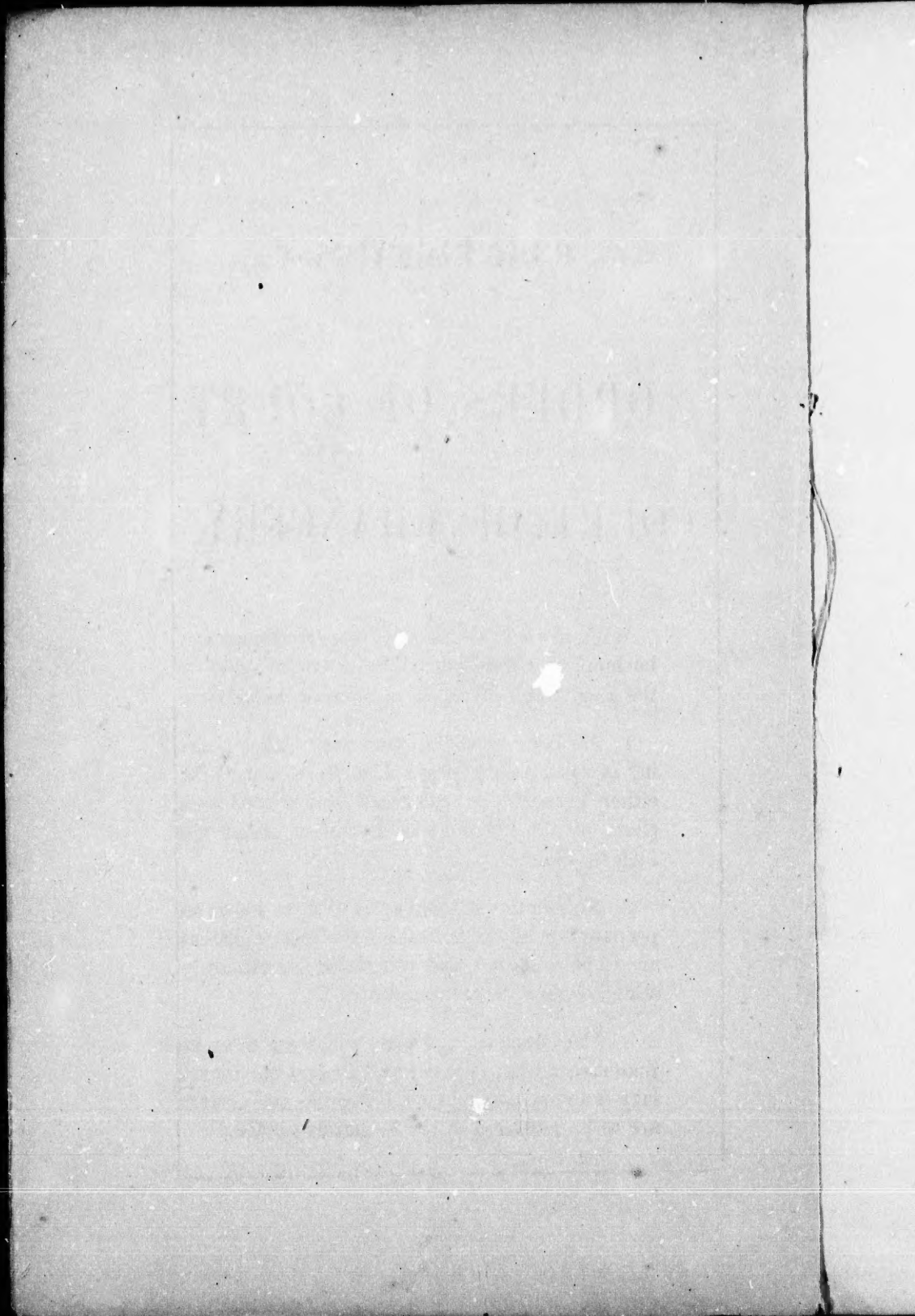
**ORDERS**  
  
OF THE  
  
**COURT OF CHANCERY,**

PROMULGATED

SEPTEMBER 10, 1866.

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TORONTO:  
HENRY ROWSELL, LAW PRINTER.  
1866.



IN CHANCERY.

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ORDERS OF COURT.

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SEPTEMBER 10, 1866.

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With a view to the more speedy dispatch of business in Chambers, and also to the relief of the Registrar's office, it is ordered as follows :

1. All Decrees and Orders made, after hearing in open Court, or in Chambers, are to be either prepared or examined and settled by a Clerk of the Court to be hereafter called the Judges' Secretary.

2. No minutes of Decrees or Orders are to be prepared or allowed ; and all Decrees or Orders are to be prepared and completed immediately after judgment is pronounced.

3. The Court, or a Judge, will from time to time direct what Decrees and Orders the Secretary is to prepare, and what Decrees and Orders are to be prepared in the Registrar's office.

4. The Secretary is to have the powers given to the Registrar by the 22nd, 23rd, and 42nd Orders of the 6th of February, 1865, respecting the passing of Decrees or Orders.

5. After any Decree or Order prepared by the Secretary is completed and engrossed, or any other Decree or Order is examined by him, he is to mark the same with his initials, and to deliver the same so marked to the Registrar, who is to sign and enter the same as hitherto.

6. The Entering Clerk is to note in the margin of the book the day of entering the Decree or Order, and is at the foot of the Decree to note the same date, and the book in which the entry has been made and the pages of such book.

7. In the absence of the Judge, the Secretary is to sit in Chambers, and hear any applications which the parties may choose to bring before him for this purpose; and he is immediately thereafter to submit the same, with his opinion thereon, to a Judge for his order; and the Secretary is to adjourn to a future day any applications he does not hear and of which notice was given.

8. Every Order made under the last preceding section is to be prepared by the Secretary, and signed and entered by the Registrar as hitherto; and a motion to set aside or vary the same is in the first instance to be to a single Judge upon notice.

9. When a Queen's Counsel has held a sitting of the Court under the Statute in that behalf, he is to enclose to the Secretary, as soon thereafter as may be, a statement signed by him, of his Decree in each case heard by him, with the date and place of hearing, and is to set forth the terms of his Decree either at full length or otherwise, as the case may require. His judgment containing the reasons for his Decree, if he thinks fit to state the same in writing, is also to be transmitted to the Secretary for the information of the Judges and the parties.

10. A Decree made by a Queen's Counsel is to be expressed in the body thereof to be the Decree of the Court, as if pronounced by one of the Judges ; but the name of the Queen's Counsel is to be given in the margin.

11. The following books, relating to money in court, are hereafter to be kept under the superintendence of the Registrar and Secretary :

- I. A book of directions to the bank to receive money.
- II. A book of cheques.
- III. A Journal.
- IV. A Ledger.
- V. A Balance Book.
- VI. A book of the mortgages and other investments made under the authority of the Court.

12. The book of directions and the book of cheques are respectively to be in the same form as hitherto, or in such other form as the Judges from time to time direct or approve. But the cheques are to specify in the body thereof the amount of interest, if any, payable therewith; and the directions and cheques are respectively to be numbered consecutively, commencing with number one.

13. The Journal is to shew the total amount of money in Court on the 1st of July, 1866, (including the money belonging to suitors, and the money at the credit of the Suitors' Fee Fund Account, and of the General Interest Account), and all subsequent transactions; and the sums paid into and out of Court are hereafter to be entered from day to day; and the journal is to be so arranged and kept that at the foot of each page will appear the total amount from time to time in the bank, assuming all cheques to have been presented.

14. The Ledger is to contain a separate account for every cause or matter in which there is money in Court, and also the Suitors' Fee Fund Account, and the General Bank Interest Account, all which accounts are to shew correctly the state and condition thereof for the time being.

15. In each of the suitors' accounts there are, from time to time, to be entered the date, purport, or short material contents, of all Decrees,



Orders or Reports affecting the same ; also, every sum paid into or out of Court, and by whom paid, and for what paid, and under what authority. There is also to be credited to the account the bank interest computed and included in any Decree, Order or Report, and a corresponding transfer of interest is to be made at the bank. There is likewise to be entered in the account a statement or memorandum of any other matters material for the information of the Court or its officers, or of any of the parties.

16. To facilitate the keeping of the proper accounts, reports of sales are to set forth briefly the terms of the sale, so far as relates to the payment of purchase money ; and other reports affecting money in Court, or to be paid into Court, are to set forth in figures in a schedule a brief summary of the sums found by the Report, and which may be paid or payable into or out of Court.

17. Every deposit on Rehearing, or on a Decree or an Order for Sale, is hereafter, like other moneys, to be paid by the party making the deposit into the bank to the credit of the cause or matter.

18. Money ordered to be paid into Court is to be paid into the Commercial Bank, with the privity of the Registrar or Secretary. All sums of money paid out of Court are to be so paid upon the joint cheque of the Registrar and Secretary, countersigned by one of the Judges,

and not otherwise. The 8th sub-section of the 43rd Order of the 3rd of June, 1853, is hereby rescinded.

19. Any person desiring to pay money into Court is to produce to the Registrar or Secretary the Decree or Order, if any, under which the same is payable, and is to file a Præcipe in the form following :

IN CHANCERY :

*(Short style of cause.)*

Required, a direction to the Bank to receive from ———  
\$ ———, payable into Court to the credit of this cause,  
under ——— dated ———, *(or as the case may be).*

A. B., Defendant's Solicitor,

*(or as the case may be).*

*(Date).*

20. The Bank, on receiving any sum of money to the credit of any cause or matter, is to prepare a receipt therefor in duplicate ; and one copy is to be delivered to the party making the deposit, and the other is to be posted or delivered on the same day, addressed to the Court.

21. Cheques may be prepared by either the Registrar or Secretary, and are to be signed by both.

22. The person entitled to a cheque is to produce and leave with the Registrar or Secretary the Decrees, Orders and Reports entitling such person to the money, and is to file a Præcipe in the form following :



## IN CHANCERY :

*(Short style of cause.)*

Required a Cheque for \$—— [with \$—— interest thereon from —— to —— *(being the period, if any, for which interest is payable under the Decree or Order of the Court, but has not been already taken into account and computed)*], payable to —— ; and the following papers are produced herewith *(naming the Decrees, Reports, &c., shewing the party's right to the Cheque, thus :*

*Decree dated —— .*

*Report dated —— , &c.)*

A. B., Plaintiff's Solicitor,

(Date).

*(or as the case may be).*

23. If the Registrar, in case the application is to him, finds the party entitled as mentioned in the Præcipe, he is to prepare and sign the cheque accordingly, computing the interest, if any, that is payable therewith, and inserting the amount in the cheque ; and he is then to deliver to the Secretary the cheque and the papers produced to shew the party to be entitled thereto ; and the Secretary is to examine the papers produced, and, on verifying the party's right to the sums mentioned in the cheque, he is to add his signature to the cheque, and to procure the same to be countersigned by a Judge.

24. When the Secretary prepares the cheque, the same is to be examined by the Registrar in the same manner, and is to be signed by him and countersigned by the Judge.

25. The Decrees, Orders, and Reports, produced as aforesaid, are to be redelivered to the party entitled thereto, with the cheque.

26. The Balance Book is to contain a statement entered therein quarterly, of the balances at the credit of the various accounts in the ledger at the date of such statement, such balances are to be made up on the 1st of January, 1st of April, 1st of July, and 1st of October of every year, after a comparison of the accounts in the ledger with the bank's accounts. This comparison is to be made by the Registrar and Secretary jointly, and the list entered in the balance book is to be signed therein by the Registrar and Secretary.

27. In the Book of Investments are to be entered, under the heading of the cause or matter in which any mortgage or other security has been taken by the order of the Court in the name of the Registrar or any other Officer of the Court, the date and short material contents of such mortgage, and of all subsequent orders and proceedings in relation thereto, until such mortgage is discharged by the order of the Court.

28. A list, signed by the Registrar and Secretary, of all the mortgages outstanding on the 1st January and 1st July, in each year, is to be delivered to the Judges within ten days thereafter, and such list is to set forth in convenient form :

- I. The short style of the cause or matter.
- II. Date of order under which mortgage executed.

- III. Date of mortgage.
- IV. Amount.
- V. When payable.
- VI. To whom.
- VII. For whose benefit.
- VIII. What sums, if any, overdue for principal or interest.
- IX. Name of mortgagor.
- X. Locality (not description) of mortgaged property.
- XI. Remarks.

29. The books kept under these orders are to be open to inspection ; and the Registrar or Secretary is to give a certificate of the state of any account, or an extract therefrom, at the desire of any party interested or his solicitor.

30. The Secretary is to take and dispose of such references under the Act for Quieting Titles, and otherwise, and to perform such other duties, and render to the Judges such other services, besides those hereinbefore named, as the Judges may respectively, from time to time, require.

31. The Secretary is to receive for drawing Decrees, taking references, or other business performed by him instead of some other Officer of the Court now performing such business, the same Fees as are now payable therefor ; and no

fees not hitherto payable by suitors are to be hereafter payable by reason of anything contained in these Orders. The Secretary is to keep in a book an account of the fees received by him, and to report to the Judges quarterly the particulars and amount thereof.

32. Where the name and place of business of a Solicitor have been indorsed upon any pleading or proceeding filed, it shall not be necessary to indorse such place of business on any pleading or proceeding in the same cause or matter subsequently filed, or subsequently served on any person who was served with the former proceeding.

33. When an acceptance of service of any Bill, Order, or other proceeding, and an undertaking to answer or appear thereto have been given by a Solicitor, such acceptance and undertaking are to be equivalent to personal service upon the party for whom the same have been given, within the meaning of the Orders requiring personal service, and an affidavit of personal service is in such case dispensed with.

P. M. VANKOUGHNET, C.

O. MOWAT, V. C.

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